

Senate File 430 - Enrolled

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1 1 SENATE FILE 430
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1 3 AN ACT
1 4 RELATING TO A CIVIL JUDGMENT, DECREE, OR ORDER OF A COURT
1 5 OF A FEDERALLY RECOGNIZED INDIAN TRIBE AND INCLUDING AN
1 6 APPLICABILITY PROVISION.
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1 8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
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1 10 Section 1. Section 624.24, Code 2007, is amended to read
1 11 as follows:
1 12 624.24 WHEN JUDGMENT LIEN ATTACHES.
1 13 When the real estate lies in the county wherein the
1 14 judgment of the district court of this state or of the circuit
1 15 or district courts of the United States was entered in the
1 16 judgment docket and lien index kept by the clerk of the court
1 17 having jurisdiction, the lien shall attach from the date of
1 18 such entry of judgment, but if in another it will not attach
1 19 until an attested copy of the judgment is filed in the office
1 20 of the clerk of the district court of the county in which the
1 21 real estate lies except for foreign judgments pursuant to
1 22 chapters 626A and 626B and tribal judgments as defined in
1 23 section 626D.2, which shall not attach until an appeal is
1 24 concluded, the time for the appeal has expired, or the stay of
1 25 execution has expired or was vacated pursuant to section
1 26 626A.4, 626B.3, 626B.5, or 626D.7. In such cases, the lien
1 27 shall attach on the date the clerk of court files an attested
1 28 copy of the judgment in the office of the clerk of the
1 29 district court of the county in which the real estate lies in
1 30 any of the following circumstances:
1 31 1. The foreign or tribal judgment has not been appealed
1 32 and the time for filing an appeal has expired.
1 33 2. The foreign or tribal judgment has been appealed and
1 34 the judgment has been affirmed on appeal and is not subject to
1 35 further appeal.
2 1 3. An appeal from a foreign or tribal judgment has been
2 2 filed and a stay from such judgment has not been granted by
2 3 the district court to the appealing party.
2 4 Sec. 2. Section 626A.3, Code 2007, is amended by adding
2 5 the following new subsection:
2 6 NEW SUBSECTION. 4. The filing of a foreign judgment under
2 7 this chapter shall not create a lien upon any real estate
2 8 until after the expiration of the time provided for in this
2 9 chapter for challenging the conclusiveness of the foreign
2 10 judgment and pursuant to section 624.24.
2 11 Sec. 3. Section 626B.6, Code 2007, is amended to read as
2 12 follows:
2 13 626B.6 OTHER FOREIGN JUDGMENTS.
2 14 1. This chapter does not prevent the recognition of a
2 15 foreign judgment by a court of this state in a situation not
2 16 specifically covered in this chapter.
2 17 2. The filing of a foreign judgment shall not create a
2 18 lien upon any real estate until all challenges, if any, to the
2 19 conclusiveness of the foreign judgment are concluded pursuant
2 20 to section 626B.3. Upon final determination of the
2 21 conclusiveness of the foreign judgment, such judgment shall
2 22 constitute a lien on real estate pursuant to section 624.24.
2 23 Sec. 4. NEW SECTION. 626D.1 TITLE.
2 24 This chapter shall be cited as the "Recognition and
2 25 Enforcement of Tribal Court Civil Judgments Act".
2 26 Sec. 5. NEW SECTION. 626D.2 DEFINITIONS.
2 27 As used in this chapter:
2 28 1. "Tribal court" means any court of any Indian or Alaska
2 29 native tribe, band, nation, pueblo, village, or community that
2 30 the United States secretary of the interior recognizes as an
2 31 Indian tribe.
2 32 2. "Tribal judgment" means a written, civil judgment,
2 33 order, or decree of a tribal court of record duly
2 34 authenticated in accordance with the laws and procedures of
2 35 the tribe or tribal court of record and in accordance with
3 1 this chapter. For purposes of this subsection, a "tribal
3 2 court of record" is considered a court of record if the court
3 3 maintains a permanent record of the tribal court's

3 4 proceedings, maintains either a transcript or electronic
3 5 record of the tribal court's proceedings, and provides that a
3 6 final judgment of a tribal court is reviewable on appeal.

3 7 Sec. 6. NEW SECTION. 626D.3 FILING PROCEDURES.

3 8 1. A copy of any tribal judgment may be filed in the
3 9 office of the clerk of court in any county in this state.

3 10 2. The person filing the tribal judgment shall make and
3 11 file with the clerk of court an affidavit setting forth the
3 12 name and last known address of the party seeking enforcement
3 13 and the responding party. Upon the filing of the tribal
3 14 judgment and accompanying affidavit, the enforcing party shall
3 15 serve upon the responding party a notice of filing of the
3 16 tribal judgment together with a copy of the tribal judgment in
3 17 accordance with rule 1.442 of the Iowa rules of civil
3 18 procedure. The enforcing party shall file proof of service or
3 19 mailing with the clerk of court. The notice of filing shall
3 20 include the name and address of the enforcing party and the
3 21 enforcing party's attorney, if any, and shall include the text
3 22 contained in sections 626D.4 and 626D.5.

3 23 3. The filing of a tribal judgment shall not create a lien
3 24 upon any real estate until such time as all challenges, if
3 25 any, to the recognition and enforcement of the tribal judgment
3 26 are concluded pursuant to sections 626D.4 and 626D.5. Upon a
3 27 final and conclusive determination of enforceability of the
3 28 tribal judgment, the judgment shall constitute a lien upon
3 29 real estate pursuant to section 624.24.

3 30 Sec. 7. NEW SECTION. 626D.4 RESPONSES.

3 31 Any objection to the enforcement of a tribal judgment shall
3 32 be filed within thirty days of receipt of the mailing of the
3 33 notice of filing the tribal judgment. If an objection is
3 34 filed within such time period, the court shall set a time
3 35 period for a formal response to the objection and may set the
4 1 matter for hearing.

4 2 Sec. 8. NEW SECTION. 626D.5 RECOGNITION AND ENFORCEMENT
4 3 OF TRIBAL JUDGMENTS.

4 4 1. Unless objected to pursuant to section 626D.4, a tribal
4 5 judgment shall be recognized and enforced by the courts of
4 6 this state to the same extent and with the same effect as any
4 7 judgment, order, or decree of a court of this state.

4 8 2. If no objections are timely filed, the clerk shall
4 9 issue a certification that no objections were timely filed and
4 10 the tribal judgment shall be enforceable in the same manner as
4 11 if issued by a valid court of this state.

4 12 3. A tribal judgment shall not be recognized and enforced
4 13 if the objecting party demonstrates by a preponderance of the
4 14 evidence at least one of the following:

4 15 a. The tribal court did not have personal or subject
4 16 matter jurisdiction.

4 17 b. A party was not afforded due process.

4 18 4. The court may recognize and enforce or decline to
4 19 recognize and enforce a tribal judgment on equitable grounds
4 20 for any of the following reasons:

4 21 a. The tribal judgment was obtained by extrinsic fraud.

4 22 b. The tribal judgment conflicts with another filed
4 23 judgment that is entitled to recognition in this state.

4 24 c. The tribal judgment is inconsistent with the parties'
4 25 contractual choice of forum provided the contractual choice of
4 26 forum issue was timely raised in the tribal court.

4 27 d. The tribal court does not recognize and enforce
4 28 judgments of the courts of this state under standards similar
4 29 to those provided in this chapter.

4 30 e. The cause of action or defense upon which the tribal
4 31 judgment is based is repugnant to the fundamental public
4 32 policy of the United States or this state.

4 33 Sec. 9. NEW SECTION. 626D.6 STAY == BOND REQUIREMENT ON
4 34 APPEAL.

4 35 1. If the objecting party demonstrates to the court that
5 1 an appeal from the tribal judgment is pending or will be taken
5 2 or that a stay of execution has been granted, the court may
5 3 stay enforcement of the tribal judgment until the appeal is
5 4 concluded, the time for appeal expires, or the stay of
5 5 execution expires or is vacated.

5 6 2. If a party appeals a district court's ruling on the
5 7 recognition and enforcement of a tribal judgment, the court,
5 8 upon application of the opposing party, shall require the same
5 9 security for satisfaction of the judgment which is required in
5 10 this state.

5 11 Sec. 10. NEW SECTION. 626D.7 CONTACTING COURTS.

5 12 The district court, after notice to the parties, may
5 13 attempt to resolve any issues raised regarding a tribal
5 14 judgment pursuant to section 626D.3 or 626D.5, by contacting

5 15 the tribal court judge who issued the judgment.
5 16 Sec. 11. NEW SECTION. 626D.8 APPLICABILITY.
5 17 This chapter shall govern the procedures for the
5 18 recognition and enforcement by the courts of this state of a
5 19 civil judgment, order, or decree issued by a tribal court of
5 20 any federally recognized Indian tribe emanating from a cause
5 21 of action that accrued on or after the effective date of this
5 22 Act. The date that a cause of action accrues shall be
5 23 determined under the appropriate laws of this state. This
5 24 chapter does not impair the right of a party to seek
5 25 enforcement under any other existing laws or procedures.
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5 30 JOHN P. KIBBIE
5 31 President of the Senate
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5 34 _____
5 35 PATRICK J. MURPHY
5 36 Speaker of the House

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6 2 I hereby certify that this bill originated in the Senate and
6 3 is known as Senate File 430, Eighty-second General Assembly.
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6 7 _____
6 8 MICHAEL E. MARSHALL
6 9 Secretary of the Senate

6 9 Approved _____, 2007
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6 13 CHESTER J. CULVER
6 14 Governor